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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,923	03/31/2004	Alvin Sharell Perry		5058

35288 7590 03/21/2005

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EXAMINER

LEGESSE, NINI F

ART UNIT PAPER NUMBER

3711

DATE MAILED: 03/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/813,923	PERRY, ALVIN SHARELL	
	<b>Examiner</b>	<b>Art Unit</b>	
	Nini F. Legesse	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Priority***

Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows: this application must have been submitted during the pendency of the parent applications. Please remove the priority statement at the beginning of the specification.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the buttons as claimed in line two of claim 1 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

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application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

**Claims 12-16** are objected to because of the following informalities: claim 12 is depending on itself. Appropriate correction is required.

**For purpose of examining the claims, it is assumed that claim 12 is to depend on claim 11.**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-5, 7** are rejected under 35 U.S.C. 102(b) as being anticipated by Tudor (US Patent No. 5,256,119).

**With regards to claim 1**, Tudor discloses an apparatus comprising a forward foot-gripping element (38) including means for securing a forward foot (see column 3 lines 1-5 and Fig. 4), and a rear foot-gripping element including means for securing a rear foot (see column 3 lines 1-5 and Fig. 4).

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**With regards to claim 2**, an adjustment mechanism for adjusting the distance between said forward and rear foot gripping elements (12 with 24 and 25).

**With regards to claim 3**, said adjustment means is comprised of two opposing attaching means (24 and 25).

**With regards to claim 4**, wherein said means for securing a forward foot is in the form of two opposing straps that is releasable and attachable to each other (see Fig. 4).

**With regards to claim 5**, wherein said means for securing a rear foot is in the form of two opposing straps that is releasable and attachable to each other (see Fig. 4).

**With regards to claim 7**, said forward foot-gripping element further comprises a base strap (the strap located at the bottom of the feet as shown on Fig. 4 is considered a base strap).

**With regards to claim 8**, said rear foot gripping element further comprises a base strap (the strap located at the bottom of the feet as shown on Fig. 4 is considered a base strap).

**With regards to claim 9**, wherein two opposing straps releasable attachable to each other are further attached to said base strap (38 and 40 as shown on Fig. 4).

**With regards to claim 10**, wherein said means for securing a rear foot is in the form of a base strap and an opposing strap being releasable attachable to each other, wherein said opposing strap is attached to said base strap (see Fig. 4).

**With regards to claim 11**, wherein an additional strap is attached to said means for attaching (12), wherein the additional strap further comprising a means for attachment (24 and 25).

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**With regards to claim 12**, wherein the length of the additional strap is capable of being adjusted (column 2 lines 47-50).

**With regards to claim 13**, wherein the additional strap further comprises a means for attaching the additional strap to a person's leg (14).

**With regards to claim 14**, wherein the additional strap further comprises a means for attaching the additional strap to a person's leg (14).

**Claims 1, 6, and 11-17** are rejected under 35 U.S.C. 102(b) as being anticipated by Jackson (US Patent No. 4,706,987).

**With regards to claim 1**, Jackson discloses an apparatus comprising a forward foot gripping element (14) including means for securing a forward foot (52), and a rear foot-gripping element (18) including means for securing a rear foot (22).

**With regards to claim 6**, the strap is made of fabric (see column 3, line 30).

**With regards to claim 11**, wherein an additional strap (30 or 32) is attached to said means for attaching, wherein the additional strap further comprising a means for attachment (see Fig. 8).

**With regards to claim 12**, wherein the length of the additional strap is capable of being adjusted (see Figs. 7 and 8).

**With regards to claims 13-16**, wherein the additional strap further comprises a means for attaching the additional strap to a person's leg (the means for attaching the additional strap is 42 and 44 as shown on Fig. 8 and see Fig. 2 to see that the additional strap is attached to a person's leg).

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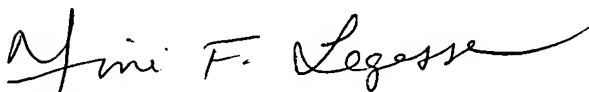
**With regards to claim 17**, during normal use and operation of the Jackson's device, the method steps as claimed would inherently be performed.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nini F. Legesse whose telephone number is (571) 272-4412. The examiner can normally be reached on 9:30 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571) 272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Nini F. Legesse

03/16/05